

A motion by Oklahoma to amend the SSUTA relating to other taxes on communications services:

- A. A Member State shall not be required to comply with the provisions of this section in order to meet the requirements for Member State status under the Agreement. A Member State or a Non-member State may petition the Governing Board to have the Governing Board determine that it complies with the provisions of this Section.
- B. Except as specifically otherwise provided in this section, the provisions of the Agreement and the Library of Definitions shall apply separately to each type of other tax on communications services in the same manner and to the same extent as such provisions and definitions apply to sales and use taxes.
1. The following factors should be considered in determining what taxes are considered “one type of tax” for purposes of this section.
 - a. Whether the taxes under consideration are adopted or authorized by separate items of legislation.
 - b. Whether the taxes under consideration are adopted or authorized by separate votes of the people.
 - c. Whether the taxes under consideration are applied to the same base.
 - d. Whether the taxes under consideration are imposed on the same products or services.
 - e. Whether the taxes under consideration are expended for the same purpose.
 2. Examples of taxes to be considered as separate types of taxes are:
 - a . . .
 - b . . .
- C. The following are exceptions to the application of the Agreement and the Library of Definitions to each type of other tax on communications services.
1. When a provision of the Agreement or Library of Definitions, excluding Article III, is clearly not applicable to such taxes as determined by a three fourths vote of the Governing Board.
 2. The following provisions of the Agreement shall be applied to other taxes on communications services differently than to sales and use taxes as follows:
 - a. The requirement in Section 301 for a member state to provide state level administration of sales and use taxes is modified to allow a designated agent to provide for the administration of each other tax on communications services.
 - b. The requirement of Section 318 for one uniform return for each state and all the taxing jurisdictions within the member state for sales and use taxes is modified to provide that there shall be one state-specific uniform return for each type of other tax on communications services.
 - c. The provisions of Section 308 for rate simplification for sales and use taxes are modified to require that each taxing jurisdiction shall have only one rate for each type of other tax on communications services. In addition, a State may take into account all State and political subdivision taxes on

communications services that are imposed on a similar product when applying the last sentence of Section 308A.

- d. The requirement for tax base uniformity in Section 302 of the Agreement shall apply to each type of other tax on communications services within a state, but shall not be construed to require that the tax base for each type of other tax on communications services must be identical to the tax base for sales and use taxes imposed on communications services. In addition, if a state does not impose a particular type of tax on other communications services that is imposed by more than one locality in such state, Section 302 shall be constructed to require that all local taxes have the same tax base.
- e. The requirement of Sections 302 and 401 for a centralized registration system for sales and use taxes is modified to permit a centralized, one-stop registration system at the state-level for taxes administered solely within the state. Sellers shall also be allowed to register directly with localities.
- f. The provisions of Section 806 of the Agreement relating to joint audits are modified to provide for a single audit at the state level for each type of other tax on communications services within a state.
- g. The requirements for states to provide compensation to sellers shall be modified as follows: _____.

D. 1. For purposes of this section the term “other taxes on communications services” means any tax, charge or fee levied by a taxing jurisdiction as a fixed charge for each customer or measured by gross amounts charged to customers for communications services, regardless of whether such tax, charge or fee is imposed on the vendor or customer or the service and regardless of the terminology used to describe the tax, charge, or fee. The term “other taxes on communications services” shall include any tax, charge or fee that is a payment obligation to a state enabled under subsection 254(f) of the communications Act of 1934.

- 2. Examples of other taxes on communications services include:
 - a. 911 emergency fees where the fee is a fixed charge on each customer or is measured by the gross amounts charged on each customer; and
 - b. universal service fees where the fee is a fixed charge for each customer or is measured by the gross amounts charged to a customer.

E. The term “other taxes on communications services” does not apply to:

- 1. any tax, charge or fee levied upon or measured by the net income, capital stock, net worth, or property value of the provider of communications services.

Examples include:

- a. generally imposed state income taxes.
 - b. . .
- 2. any tax, charge or fee that is applied to an equitably apportioned amount that is not determined on a transactional basis.

Examples include:

- a. . . .
- b. . . .

3. any tax, charge or fee that represents compensation for a communications service provider's use of public rights of way or other public property, generally considered as franchise or right of way fee.

Examples include:

- a. . . .
- b. . . .

4. any generally applicable business and occupations tax that is imposed by a State, is applied to gross receipts or gross proceeds, is the legal liability of the seller of communications services and that statutorily allows the seller of communications services to elect to use the sourcing method required under the Agreement.

Examples include:

- a. . . .
- b. . . .

F. The term `communications services' includes the following:

1. Telecommunications services as defined in Part II of the Library of Definitions; or
2. Video programming services - the offering, transmission, conveyance or routing of radio and television audio and video programming services for purchase by subscribers or customers, regardless of the medium, technology or method of display, including the furnishing of transmission, conveyance and routing of such services by the video programming distributor. This clause (ii) shall include, but not be limited to, "cable service" as defined in 47 U.S.C. § 522(6), interactive on-demand service as defined in 47 U.S.C. § 522(12), the provision of "video programming" by a "multichannel video program distributor" as defined in 47 U.S.C. § 522(20), (13), and the distribution of audio and video programming by providers of "commercial mobile radio service" as defined in 47 C.F.R. § 20.3, when such services are offered for purchase by subscribers or customers of such service; and
3. Ancillary services as defined in Part II of the Library of Definitions.

G. Definition of terms in this section, except to the extent such term is defined in part II of the Library of Definitions shall not be used to restrict or affect the taxation or exemption from taxation of any product pursuant to Section 316 or 327 of the Agreement.

H. The following taxes, if in effect on the date of adoption of this Section, will not be subject to the provisions of this section.

1. . . .
2. . . .

- I. The following taxes, if in effect on the date of adoption of this Section, shall be considered as separate types of taxes.
 1. 911 fees imposed on users of different types of communications services when such fees are separately imposed by local jurisdictions and are authorized by separate statutes or other sources of legal authority.
 - 2 . . .